

ASSEMBLY BILL

No. 20

Introduced by Assembly Member Kalra

December 5, 2016

An act to add Section 7513.72 to the Government Code, relating to public employee retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 20, as introduced, Kalra. Public employee retirement systems: divestment: Dakota Access Pipeline.

The California Constitution authorizes the Legislature to prohibit, by statute, investments of a retirement board if it is in the public interest to do so and if the prohibition satisfies the board's standards of fiduciary care and loyalty.

Existing law prohibits the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System from investing funds in a company with active business operations in Sudan, as specified, from investing in a company that has certain business operations in Iran, as specified, and from investing in thermal coal companies, as defined.

This bill would prohibit the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System, on and after January 1, 2018, from making additional investments or renewing investments in a company constructing, or funding the construction of, the Dakota Access Pipeline, as defined. This bill would require the boards, on or before July 1, 2018, to liquidate their investments in a company constructing, or funding the construction of, the Dakota Access Pipeline. The bill would provide that it does not require a board to take any action unless the board determines in good

faith that the action is consistent with the board's fiduciary responsibilities established in the constitution. The bill would make related legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Dakota Access Pipeline that is being built in the southern
4 region of North Dakota was originally planned to run north of
5 Bismark, North Dakota, but for a variety of reasons, including
6 environmental concerns regarding potential harm to the water
7 supply of Bismarck and surrounding communities, it was rerouted
8 south.

9 (b) The Dakota Access Pipeline is now routed just north and
10 upstream of the Standing Rock Sioux Reservation. Thousands of
11 people representing over 200 indigenous tribes have set up camp
12 in an effort to block the construction of the pipeline through sacred
13 land and, most significantly, to protect the water supply that the
14 Sioux tribe there relies upon for its survival.

15 (c) The hostility of local law enforcement and the North Dakota
16 national guard against unarmed protestors has reached dangerous
17 levels. In recent confrontations, law enforcement has used water
18 cannons against unarmed protesters in frigid temperatures, in
19 addition to the ongoing use of rubber bullets and chemical agents.

20 (d) As Californians, we must hold ourselves to a high standard
21 of conduct, including how we invest our pension funds. Both
22 morally and fiscally, the millions of dollars that the Public
23 Employees' Retirement System and the State Teachers' Retirement
24 System have invested in the Dakota Access Pipeline can be better
25 spent elsewhere.

26 (e) The time has come for us as a state to divest from fossil fuels
27 and focus on emerging technologies and clean, renewable energy.
28 Because water is life, the most immediate action we should take
29 is to divest from the Dakota Access Pipeline.

30 SEC. 2. Section 7513.72 is added to the Government Code, to
31 read:

32 7513.72. (a) As used in this section:

1 (1) “Board” means the Board of Administration of the Public
2 Employees’ Retirement System or the Teachers’ Retirement Board
3 of the State Teachers’ Retirement System, as applicable.

4 (2) “Company” means a sole proprietorship, organization,
5 association, corporation, partnership, venture, or other entity, or
6 its subsidiary or affiliate, that exists for profit-making purposes or
7 to otherwise secure economic advantage.

8 (3) “Dakota Access Pipeline” means the oil pipeline connecting
9 the Bakken oil fields in northwest North Dakota to Illinois,
10 traveling through South Dakota and Iowa, that runs north and
11 upstream of the Standing Rock Sioux Reservation.

12 (4) “Investment” means the purchase, ownership, or control of
13 publicly issued stock, corporate bonds, or other debt instruments
14 issued by a company.

15 (5) “Public employee retirement funds” means the Public
16 Employees’ Retirement Fund described in Section 20062 of this
17 code and the Teachers’ Retirement Fund described in Section
18 22167 of the Education Code.

19 (b) On and after January 1, 2018, the board shall not make
20 additional investments or renew existing investments of public
21 employee retirement funds in a company constructing, or funding
22 the construction of, the Dakota Access Pipeline.

23 (c) On or before July 1, 2018, the board shall liquidate its
24 investments in a company constructing, or funding the construction
25 of, the Dakota Access Pipeline.

26 (d) Nothing in this section shall require a board to take action
27 as described in this section unless the board determines in good
28 faith that the action described in this section is consistent with the
29 fiduciary responsibilities of the board described in Section 17 of
30 Article XVI of the California Constitution.